

EXHIBIT 3

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF WYOMING

3 WILLIAM JEROME RUTH, individually,
4 and as Wrongful Death Representative
5 of the ESTATE OF CYNTHIA SHOOK RUTH,

6 Plaintiff,

7 v.

8 BEARTOOTH ELECTRIC COOPERATIVE, INC.,
9 a Montana Corporation, and ASPLUNDH
10 TREE EXPERT, LLC, a Limited Liability
11 Company formed in Pennsylvania,

12 Defendants.

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15 DEPOSITION OF PAM NELSON
16 March 13, 2023
17 8:00 a.m.

18

19 PURSUANT TO THE UNITED STATES RULES OF FEDERAL
20 PROCEDURE, this Deposition was:

21 TAKEN BY: Kenneth E. Barker, Esq.
22 Attorney for Plaintiff

23 REPORTED BY: Barbara Jean Morgenweck, RPR, CCR
24 NCRA, RPR
25 New Mexico CCR #526

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1 APPEARANCES:

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26 On behalf of Defendant Asplundh Tree Expert, LLC:

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1 side of the creek from us, from the centermost.

2 Q. Directly south.

3 A. Yeah. So she'd be directly south of
4 centermost.

5 (There was a brief discussion off the
6 record.)

7 BY MR. BARKER:

8 Q. Okay. So the photographs you just mentioned
9 were taken from her home?

10 A. Back there, yes.

11 Q. And starting with Photograph 24, can you
12 tell us what that shows?

13 A. I -- that's showing -- again, I'd have to --
14 that's showing my place, the hay bales burning and
15 the fire that was just kind of behind the cottage at
16 centermost.

17 Q. Okay. And the next Photograph 26 -- excuse
18 me -- 25.

19 A. 25 is -- this is a photo I took. Good
20 grief. It's just incredible. 25 is showing the
21 Hutton home and another neighbor's home, the
22 Goldbergs, which would be just east of the Hutton
23 home and -- east and a little north. It is showing
24 both the Hutton property and the Goldberg property.

25 MR. PAHLKE: Could we use Hank's picture?

1 MR. BONA: May I suggest that we just
2 display it on the screen on Zoom? Then she can
3 identify it on Zoom? And then you can zoom in
4 close, you can close zoom, do whatever we need.

5 MR. BARKER: We can. Sure.

6 Holly, are you able to bring that up?

7 MS. COATES: Sure.

8 MR. BONA: Sorry to make work for you,
9 Holly.

10 MS. COATES: Nope. It's good.

11 THE WITNESS: All right. So this is a
12 picture I took with Ron, Janet's husband, when we
13 came back after I dropped off horses. And how can
14 I -- how can we see -- what can I do so that you can
15 see?

16 MR. BAILEY: Just is there any chance that
17 she can put a time on this picture?

18 THE WITNESS: Oh, that's good. Yeah, I can
19 time it. I can get you that.

20 That is the Goldberg home, shop, that you
21 just circled, Holly. And then to your left, or to
22 the west in geographical orientation, is the Hutton
23 property. So if you can go down to your left on the
24 photo itself, not to the right, over there. Yep.
25 Do you see the little structure? Go up to your

1 right is some trees.

2 MS. COATES: Up here?

3 THE WITNESS: Yes, correct. That's the
4 Hutton home.

5 BY MR. BARKER:

6 Q. So for the record we drew a circle -- Holly
7 drew a circle around the Goldberg property; is that
8 correct?

9 A. That's correct.

10 Q. And that's accurately placed?

11 A. That's accurately placed.

12 Q. And then there is an X on the Hutton
13 property. Is that accurately placed?

14 A. Yes.

15 Q. And you're going to show us from your phone?

16 A. Timestamp.

17 Q. The properties, yes.

18 MR. BARKER: And you have that also, Holly?

19 MS. COATES: I probably do. I just have to
20 figure out which image it is.

21 MR. BARKER: Don't worry about it. I think
22 it's more efficient maybe for Pam to just look it up
23 on her phone.

24 THE WITNESS: I have it. It's 11:30 p.m.

25 BY MR. BARKER:

1 Q. Okay. And do your properties show the
2 orientation, then, to the north? Is that some of
3 the data that's included there?

4 A. It's not. The location data isn't. Sorry.
5 But it is looking to the northeast, primarily
6 northeast.

7 Q. Okay. For the sake of time and efficiency,
8 I'm going to go through the next photographs to make
9 sure that we identify those that are yours and those
10 that are Janet's. Okay?

11 A. Yes.

12 Q. And so --

13 MS. COATES: I'm sorry. Did you want to
14 mark this annotated image as an exhibit?

15 MR. BARKER: Thank you. So what we will is
16 we will mark -- thank you, Holly. We will mark this
17 as Exhibit 14.

18 (Exhibit 14 25A was marked for
19 identification.)

20 MR. BARKER: And it is Photograph 25. And
21 the annotation will be 25A. Okay? Thanks for
22 reminding me.

23 THE WITNESS: Oh, boy.

24 BY MR. BARKER:

25 Q. What are you looking at?

1 A. I want to make sure that I'm correct in what
2 I'm -- where I am sitting.

3 Okay. I have to apologize. I'm wrong. I'm
4 actually sitting in the driveway of the Hutton home.
5 I need to take that all back.

6 Q. Okay. That's okay. That's why we're here.
7 We'll get it right.

8 A. So I'm -- this photo is right in front of
9 the Hutton home.

10 Q. So we're looking at Exhibit 1, clear to the
11 right. And you're in the driveway looking --

12 A. Uh-huh. And then I'm looking up at
13 Goldberg's. So that is still the Goldberg shop.
14 It's just that my perspective is not the road, but
15 actually in the -- at the driveway of Buttons.

16 Q. Okay. What about the circle that we placed,
17 is that --

18 A. The circle is correct. That is the Goldberg
19 shop.

20 Q. So both annotations on Exhibit 14 25A are
21 accurate?

22 MR. PAHLKE: There's another annotation?

23 MR. BARKER: There was an X as well.

24 THE WITNESS: That is not -- okay, yeah.

25 BY MR. BARKER:

1 Q. So it's just the circle?

2 A. Yep.

3 Q. Okay. So that's -- it's correct as it is
4 presented now?

5 A. Yes.

6 MR. PAHLKE: Wait. We have the X now. We
7 have two annotations now.

8 THE WITNESS: That X is just fire on some
9 trees. That's not -- there's nothing -- no other
10 structure. Does that make sense?

11 MR. BAILEY: Now we have an X on the
12 Goldberg --

13 MR. BARKER: We'll get it right here,
14 gentlemen. Bear with me.

15 Holly, can we put a circle around where we
16 had the circle before?

17 MS. COATES: Oh, sorry about that.

18 MR. BARKER: That's okay.

19 THE WITNESS: If I may point out something
20 else in the photo.

21 MR. BARKER: Absolutely.

22 THE WITNESS: The hot spot that we were
23 putting out with my neighbor's hose are just on the
24 other side of that corner fence, that corner rail
25 fence. Just on the other side of that had a lot of

1 these fires, spot fires.

2 BY MR. BARKER:

3 Q. Spot fires. Okay.

4 A. That's what we're going to call them now.

5 Okay. Sure.

6 So they had started. So we were putting
7 those out on the -- because they were getting really
8 close to Buttons. They were coming towards Buttons
9 or whatever. And however it was. So we were
10 putting out fires over there.

11 BY MR. BARKER:

12 Q. Now that we have an orientation correct --

13 MR. BAILEY: Could we have her mark what she
14 says over there?

15 THE WITNESS: Sure. I'm so sorry.

16 MR. BARKER: Could you direct Holly? That's
17 okay.

18 THE WITNESS: Okay. Holly, right to your --
19 yeah, right to you -- you're real close. Just go up
20 a little bit. And that dark in that kind of -- how
21 do I say this? Come back towards me a little bit.
22 Come back towards the fence. Just on the other side
23 of that driveway that you can see is where those
24 fires were. So you can't really --

25 MS. COATES: Here?

1 MR. BARKER: Can you mark that with a
2 different --

3 THE WITNESS: To your right a little bit.

4 Yeah. Kind of right in front of the yard there.

5 Perfect. Yeah, that would be -- that's right, it's
6 right in there.

7 MR. BARKER: Let's put a square -- can you
8 draw a square, Holly, the best that you can?

9 MS. COATES: Sure.

10 BY MR. BARKER:

11 Q. Is that accurate?

12 A. Yeah. That would be accurate. It was just
13 on the other side of the driveway. He had a long
14 hose in the back of his truck. He kept it there for
15 fires, actually.

16 MR. BARKER: Hank, does that work for you?

17 MR. BAILEY: Yes, thank you.

18 MR. BARKER: You bet.

19 BY MR. BARKER:

20 Q. Pam, so we have an orientation, the driveway
21 that you're speak of, that's a driveway to the
22 Hutton home?

23 A. To the Hutton home. And then it goes past
24 and up to the Goldberg home.

25 Q. Okay.

1 MR. BAILEY: I'm sorry, Ken. Could we have
2 her draw a line on the driveway? I think I know
3 what it is. I think it's just on the other side of
4 the fence there.

5 THE WITNESS: Yes. Correct.

6 MR. BAILEY: Yeah. That's it?

7 THE WITNESS: That's it.

8 MR. BAILEY: Okay.

9 THE WITNESS: And it goes -- it continues to
10 the left on the picture up to the Goldbergs. Yeah.
11 Correct.

12 BY MR. BARKER:

13 Q. Okay. And so the orientation of this
14 photograph, we're looking in what direction?

15 A. I was -- that's northeast.

16 Q. Okay. And so just to summarize the
17 annotations on this photograph, to make sure that
18 we're all on board --

19 MR. BARKER: And you guys are welcome to
20 join in here.

21 BY MR. BARKER:

22 Q. Is the circle is on the Goldberg property?

23 A. Correct.

24 Q. The line is on the driveway to the Goldberg
25 property and the Hutton property?

1 A. Correct. The Hutton home.

2 Q. The Hutton home.

3 And the square shows the areas of where the
4 spot fires were that you and others were trying to
5 put out with a hose?

6 A. Some of them, yep. Uh-huh.

7 Q. Some of them. Okay. Great.

8 And that is marked again as 14, 25A.

9 Okay. With that, Pam, we're going to go
10 through some photographs I want to make sure that
11 everybody participating in this case knows were
12 yours and what were contributed by Janet, okay?

13 A. Uh-huh.

14 Q. And I believe we already talked about the
15 three that you already mentioned. The next one that
16 I have in my list is 28.

17 A. Okay.

18 MR. PAHLKE: Photograph 28 of?

19 MR. BARKER: Of Exhibit 14. Yes.

20 Photograph 28 of Exhibit 14.

21 THE WITNESS: Janet took that picture.

22 BY MR. BARKER:

23 Q. Okay. And she sent this to you; is that
24 correct?

25 A. Yes.